

**Amendments to the Drawings**

The attached sheets of drawings include changes to FIGS. 1A-1E, 2, and 3A-3B. These sheets, numbered sheets 1-5 and including FIGS. 1A-1E, 2, and 3A-3B, replace original sheets 1-5, which include FIGS. 1A-1E, 2, and 3A-3B. FIGS. 1A-1E, 2, and 3A-3B have been replaced to comply with 37 C.F.R. §1.84(l), and reference numeral "19" has been added to FIGS. 1C and 1D to comply with 37 C.F.R. §1.84(p)(5).

Attachment: Replacement Sheets 1-5

**REMARKS**

The pending Office Action addresses claims 1-35. Claims 2-5, 13-16, and 25 are withdrawn, and remaining claims 1, 6-12, 17-24, and 26-35 stand rejected. Reconsideration is respectfully requested in view of the amendments and remarks submitted herewith.

***Amendments to the Specification***

Applicants amend the abstract to correct a minor typographical error, as per the Examiner's suggestion. No new matter is added.

***Amendments to the Drawings***

Applicants submit the attached replacement drawings for FIGS. 1A-1E, 2, and 3A-3B, sheets 1-5, which are formal copies of previously filed FIGS. 1A-1E, 2, and 3A-3B in order to comply with 37 C.F.R. §1.84(l). Applicants have also added reference numeral 19 to FIGS. 1C and 1D, as per the Examiner's suggestion and in order to comply with 37 C.F.R. §1.84(p)(5). No new matter is added.

***Amendments to the Claims***

Applicants amend claim 12 to clarify that the fastening element is configured to lock the spinal fixation element to the spinal anchoring device "while allowing free movement of the receiver member relative to the bone-engaging member." Support for this recitation can be found throughout the specification, at least at paragraph [0006] of the published application.

Applicants amend claim 24 to correct a minor typographical error.

No new matter is added.

***Rejections Pursuant to 35 U.S.C. §102(b)***

The Examiner rejects claims 1, 6-12, 17-24, and 26-35 pursuant to 35 U.S.C. §102(b) as being anticipated by U.S. Publication No. 2002/0151900 of Glascott, arguing that Glascott teaches each and every limitation of Applicants' claims. Applicants respectfully disagree.

Claims 1, 6-12, and 17-23

Claim 1 recites a spinal anchoring device that includes a fastening element adapted to mate to a receiver member to lock a fixation element in a fixed position relative to the receiver member while allowing the receiver member to move freely relative to the bone-engaging member. In a similar manner, independent claim 12 recites a spinal fixation element that includes a fastening element that is configured to lock a spinal fixation element to a spinal anchoring device while allowing free movement of the receiver member relative to the bone-engaging member.

Glascott does not teach or even suggest a receiver member that *can move freely* relative to the bone-engaging member once the fixation element is locked in a fixed position relative to the receiver member. Rather, Glascott teaches a screw assembly where the receiver is *locked* relative to the screw once the rod is locked within the receiver. In particular, once the screw is inserted into the receiver, a pressure disk is inserted into the receiver to mate with the head of the screw. The receiver and screw can pivot relative to one another to facilitate placement of a rod, which is received within a top surface of the pressure disk. A nut is then tightened against the rod to hold the rod in a fixed position, which in turn forces the pressure disk against the head of the screw, thereby locking the angular position of the receiver with respect to the screw. As a result, the receiver cannot move freely relative to the screw when the rod is locked therein, as required by claims 1 and 12. Accordingly, claims 1 and 12, as well as claims 6-11 and 17-23 which are dependent therefrom, distinguish over Glascott and represent allowable subject matter.

Claims 24 and 26-31

Claim 24 recites a method for correcting spinal deformities that includes locking a spinal fixation element to a receiver member on a plurality of anchoring devices to maintain adjacent vertebrae at a fixed distance relative to one another while allowing free movement of each vertebra in the fixed position. Glascott does not teach or even suggest the recitations of claim 24. Rather, as noted above, Glascott teaches an assembly where the receiver can move freely relative to the screw prior to the securement of a rod therein, but becomes locked in position relative to the screw once the rod is secured. Additionally, upon securing the rod, the vertebrae coupled to the assembly are locked

in a fixed position relative to one another and the rod – they cannot move freely. Accordingly, claim 24, as well as claims 26-31 which are dependent therefrom, distinguish over Glascott and represent allowable subject matter.

Claims 32-35


Claim 32 recites a spinal anchoring device that includes a receiver member having a distal seat for receiving at least a portion of the head of the bone screw and a proximal seat for receiving a spinal fixation rod. Glascott does not teach or even suggest a receiver member having proximal and distal seats for receiving a spinal fixation rod and the head of a bone screw, respectively. Rather, the receiver of Glascott has an internal concave surface that is smooth and does not include any type of proximal seat formed thereon for receiving a spinal fixation rod. It only includes a distal seat for seating a screw. A separate pressure disk that is removably disposed in the receiver forms the proximal seat. Accordingly, Glascott does not teach a receiver member having proximal and distal seats, and therefore claim 32, as well as claims 33-35 which are dependent therefrom, distinguish over Glascott and represent allowable subject matter.

**Conclusion**

Applicants submit that all pending claims are now in condition for allowance, and allowance thereof is respectfully requested. The Examiner is encouraged to telephone the undersigned attorney for Applicants if such communication is deemed to expedite prosecution of this application.

Respectfully submitted,

Date: February 23, 2006

  
\_\_\_\_\_  
Lisa Adams, Reg. No. 44,238  
Attorney for Applicant(s)

Nutter McClennen & Fish LLP  
World Trade Center West  
155 Seaport Boulevard  
Boston, MA 02210  
Tel: (617)439-2550  
Fax: (617)310-9550